

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MARKIE KENNETH GARNER

Petitioner,

v.

CHARLES E. SAMUELS, et al.,

Respondents.

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Case No. CIV-14-89-D

ORDER OF DISMISSAL

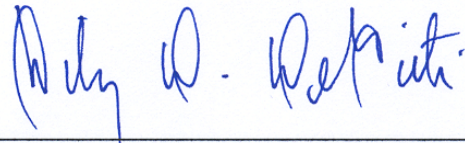
This matter is before the Court for review of the Report and Recommendation [Doc. No. 5] issued by United States Magistrate Judge Gary M. Purcell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 and sought *in forma pauperis* status. However, Magistrate Judge Purcell determined that Petitioner had adequate funds to prepay the filing fee, recommended the motion be denied and directed Petitioner to pay the full filing fee on or before February 24, 2014. The Magistrate Judge also recommended that if Petitioner failed to timely pay the fee, the action should be dismissed without prejudice to refiling.

In the Report and Recommendation, the Magistrate Judge advised Petitioner of his right to object to the findings and recommendations set forth therein. He further advised Petitioner that his failure to timely object would constitute a waiver of his right to appellate review of the factual and legal matters in the Report and Recommendation. Plaintiff's deadline for filing objections was February 24, 2012.

To date, Petitioner has not paid the filing fee and further, has not filed an objection to the Report and Recommendation or sought an extension of time in which to do so. Accordingly, the

Court adopts the Report and Recommendation [Doc. No. 5] in its entirety. The action is dismissed without prejudice to the filing of a new action.

IT IS SO ORDERED this 18th day of March, 2014.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE